

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6830 of 1985

Date of decision: 11-7-1997

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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J.B.BAXI

Versus

STATE OF GUJARAT  
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Appearance:

1. Special Civil Application No. 6830 of 1985  
MR H. S. Munshaw for Petitioner  
Mr. S. R. Divetia for Respondent No. 1  
None present for Respondent No. 4, 5
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 11/07/97

ORAL JUDGEMENT

Mr. Munshaw, learned counsel for the petitioner submits that the interse dispute regarding seniority between the petitioner and respondents No.4 and 5 has come to an end. In the final seniority list published under order dated 8th April, 1994 the petitioner has been shown senior to respondents No.4 and 5 and as such the grievance of the petitioner to that extent does not survive.

2. The counsel for the petitioner submitted that since the petitioner has been considered senior to those respondents, he is entitled to the consequential benefits on that basis and respondents No.1 to 3 are not giving the benefit to the petitioner on the pretext that the matter is still subjudice before this Court. Though this statement made by the counsel for the petitioner is not accepted by the counsel for respondents No.1,2 and 3, but if it is correct, then it is really shocking. If the petitioner is given his due place in the seniority list, then for considering his case for consequential benefits how the pendency of this special civil application will come in the way of the respondents? I fail to see any logic in such pretext and ground if taken by the respondents. Once they have considered and accepted the claim of the petitioner for seniority above the private respondents, then the consequential benefits as per law should be given to him. However, this court would not give any direction to the respondents to give to the petitioner promotion and all other benefits because promotion is not automatic on the basis of seniority. The petitioner has only right of consideration for promotion and not for the promotion as well as for other benefits, if any, given to his juniors, with reference to the date on which promotion and consequential benefits were given to his juniors.

In view of the subsequent seniority list which has been published, this special civil application has become infructuous and it does not survive and accordingly the writ petition is dismissed. However, it is hereby directed that respondents No.1,2 and 3 shall consider the case of the petitioner for promotion and consequential benefits on the basis of his improved seniority in accordance with law within a period of three months from the date of receipt of certified copy of this order. Subject to the aforesaid directions, the petition

stands of. Rule discharged. No order as to costs.

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